

December 31, 2002

To: Supervisor Yvonne Brathwaite Burke, Chair
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

**REVIEW OF ASSEMBLYMAN CORREA'S LEGISLATION ON SECTION 17200 OF
THE CALIFORNIA BUSINESS AND PROFESSIONS CODE**

This memo is in response to the Board's action of December 10, 2002, instructing the Chief Administrative Office to review AB 69 (Correa) and to make a recommendation if the Board should support this legislation.

Section 17200 of the California Business and Professions Code prohibits businesses from engaging in "unfair competition" and allows both public prosecutors and private attorneys to seek civil penalties and damages. Any lawyer may file a suit against any business alleging unfair competition since the definition of unfair competition is very broad. Current law defines unfair competition as any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising.

Press reports suggest some lawyers have been targeting small businesses whose owners are likely to be immigrants. These lawyers typically threaten legal action unless the owners pay a settlement amount to avoid prosecution. These accounts prompted Assemblyman Correa to introduce a "spot bill" to initiate negotiations on tougher standards for unfair competition suits. In its current form, the bill includes legislative findings regarding: 1) the intent of the unfair competition law to protect consumers and the businesses that serve them from fraud and deception in advertising; 2) the important role private attorneys play representing consumers in unfair competition law; and 3) the improper or unethical use of the unfair competition law undermines the intent of the law and hampers the ability of legitimate businesses to operate efficiently and provide the jobs, goods, and services needed by the consumers of the State.

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The author's office acknowledges that AB 69 is a "work in progress" and that all the relevant facts regarding these unfair competition lawsuits have yet to be gathered. The author's office further indicated a willingness to work with the County because many of the affected businesses are probably in Los Angeles County. **Since AB 69 is currently a work in progress, it is recommended that the County take no position on this measure until more substantive language is developed. Furthermore, it is recommended that our Sacramento advocates monitor the bill and advise when a position is warranted.**

DEJ:GK
EW:zo

c: Executive Officer, Board of Supervisors
 County Counsel
 Consumer Affairs
 District Attorneys